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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,006	09/20/2006	Quentin Baillia-Prel	0579-1128	1367

466 7590 07/15/2010
YOUNG & THOMPSON
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Alexandria, VA 22314

EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3673

NOTIFICATION DATE	DELIVERY MODE
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07/15/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary	Application No. 10/588,006	Applicant(s) BAILLIA-PREL, QUENTIN	
	Examiner CARLOS LUGO	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,9-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9-28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on April 27, 2010.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1, 3-6, 9-28 and 30-32 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

First, claim 1 requires a bolt-operating member. However, it still unclear what bolt is going to operate since the claim fails to add one. Claim 1 requires the limitation of claim 25. Correction is required.

Second, the claim also requires that the crash bar has a member of profiled section. It is unclear what the applicant is trying to claim with this limitation. Also, where is that supported in the specification?

Third, the claim language further requires that "the member of profiled section" have a maneuver portion "rigidly incorporated" to the section. Where is support in the specification for element 44 or 144 being a separate member rigidly incorporated into the crash bar?

Fourth, the claim language further recites that a lever arm of the maneuver portion relative to the longitudinal axis is smaller than a lever arm of the stop portion relative to the longitudinal axis. Again, what is the applicant trying to claim here and which these lever arms are?

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As clearly described and illustrated, the crash bar (4) has a main body, an upper portion or first arm extending from one end and a lower portion or second arm extending from the opposite end, a stop portion extending from the other end of the upper portion and an articulated member (bead) extending from the other end of the lower portion (attachment #1). A broad interpretation will be given to the claim language. Correction is required.

Fifth, the claim requires that the stop member will only engage one abutment on the fixed part that will delimit the pivoting motion of the bar. However, as clearly seen in the drawings and in the specification, the stop will engage two abutments, not just one. Correction is required.

As to claim 3, is the stop member claimed is the same as the one claimed in claim 1? Correction and/or explanation are required.

As to claim 4, how both profiled sections, which are still unclear which structure is referring, can extend in the same direction? As clearly shown in the drawings, the sections of the bar 4 extends towards the fixing part 3 and the structure of part 3 are extending toward the bar 4. Correction is required.

As to claim 5, it is unclear how the housing is entered via a slot with clearance by a longitudinal edge of the member of profile section. As clearly from the drawings, the housing 34 is entered via a slot formed by elements 36 and 37 of the fixing part 3. A broad interpretation will be given. Correction is required.

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As to claim 6, the housing 34 does not include the stop 37. As clearly shown in the drawings, stop 37 is part of a rib of the fixing part 3. The ribs 36 and the one that has the stop 37 form housing 34. Correction is required.

As to claim 9, the abutment is not at a free end of the housing. The abutment 37 is part of a rib member that extends from the fixing part. Correction is required.

As to claims 13-17, the claims require that the lateral plates have an abutment that cooperates with a stop of the bar.

This limitation is drawn to the embodiment shown in figures 3-5. However, the current language of claim 1 makes the claim non-generic. Claim 1 requires that the fixing plate 3 have an abutment that cooperates with the stop 37 of the bar 4. That is in Figures 1 and 2. Therefore, the limitations of claims 13-17 can work with what is already claimed in claim 1. Therefore, in order to continue with the examination, these claims will not be considered.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1, 3-6, 10, 25-28 and 30-32 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,354,638 to Hoffman.

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Hoffman discloses a “panic” bar assembly comprising a fixed part (12) having 1st and 2nd abutments; a bolt operating member (22 and 24) that will operate a bolt (30); and a crash bar (13).

The crash bar comprises a main body having a pivoting end (at 16) and a stop member (17) at the opposed end. The device creates a housing for covering the members of the fixing plate and the crash bar (attachment #2).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 9, 12 and 18-24 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,354,638 to Hoffman.

As to claim 9, Hoffman fails to disclose that the section of the bar (13) that enters the housing is curved. Hoffman discloses that the sections are straight.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sections curved, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art.

As to claims 12 and 18-24, Hoffman fails to disclose that the device comprises lateral plates or shells that situate the crash bar. Hoffman discloses that the device comprises lateral walls, not as separate members from the fixing plate.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the walls described by Hoffman as separate elements fastened to the fixing plate since separate elements fastened together, in place of a one-piece construction, is a design consideration within the skill of the art.

8. **Claim 11 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,354,638 to Hoffman in view of US Pat No 3,969,845 to Yulkowski.

Hoffman fails to disclose that the pivoting end is an articulated bead that is supported by a slotted member. Hoffman discloses a different pivotal end.

Yulkowski teaches that it is well known in the art to provide a pivotal actuating member (4) that pivots about a pivoting assembly that is an articulated bead (7) supported by a slotted member (11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pivoting structure described by Hoffman as an articulation bead, as taught by Yulkowski, since a change in the shape will not affect the mechanism or movement of the device.

Response to Arguments

9. Applicant's arguments filed on April 27, 2010 have been fully considered. At the instant, the current amendment overcomes the previous rejection to the claims. However, a new rejection to the claims has been made on the record.

Also, the current amendment creates several indefinite issues that need to be resolved. The language use terms that is not supported in the specification and makes unclear what is the invention.

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Instead of complicating the claim language with indefinite terms, the applicant is required to use the same terminology used in the specification (see 112 section for a clean and simple interpretation of the crash bar, attachment #1).

As to claims 13-17, the claims can not work with the device now claimed in claim 1, since claim 1 is not longer considered as generic. Therefore, no examination for these claims is provided in the Office Action.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the

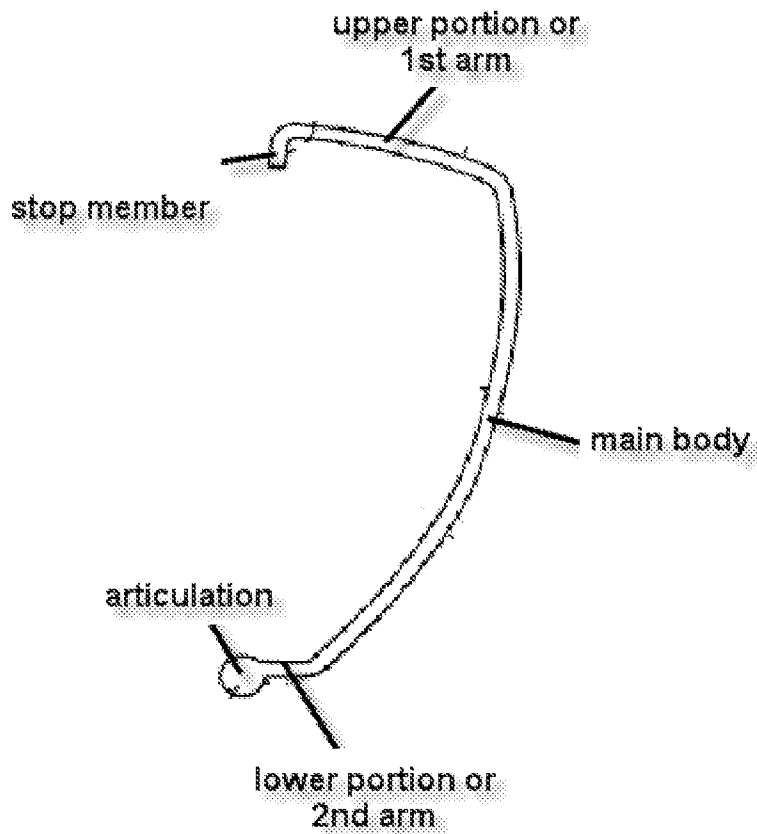
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automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

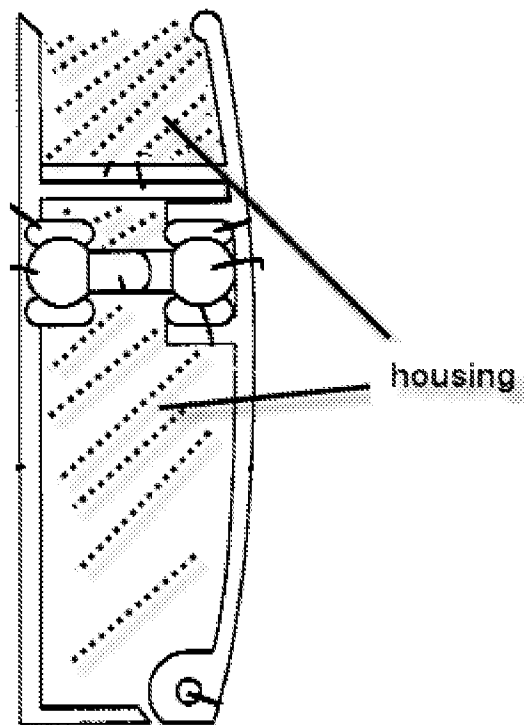
/Carlos Lugo/
Primary Examiner
Art Unit 3673

July 12, 2010.

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Attachment #1



Attachment #2